

By: Ellis

S.B. No. 506

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to requiring, as a condition of eligibility to bid on an  
3 oil, gas, or other mineral lease on certain state land, a plan for  
4 procuring goods and services from or participating with  
5 historically underutilized businesses.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subchapter D, Chapter 32, Natural Resources  
8 Code, is amended by adding Section 32.108 to read as follows:

9 Sec. 32.108. PROCUREMENT FROM OR PARTICIPATION WITH  
10 HISTORICALLY UNDERUTILIZED BUSINESSES. (a) In this section,  
11 "historically underutilized business" has the meaning assigned by  
12 Section 2161.001, Government Code.

13 (b) To be eligible to bid on an oil, gas, or other mineral  
14 lease, a person must submit to the board a plan acceptable to the  
15 board specifying how the person will:

16 (1) procure goods and services from historically  
17 underutilized businesses; and

18 (2) participate with historically underutilized  
19 businesses in the production of oil, gas, or other minerals from  
20 land leased under this subchapter.

21 (c) The lease must contain, as a provision of the lease that  
22 must be fulfilled, the plan that the lessee submitted before the  
23 lease sale. The lessee shall make good faith efforts to implement  
24 the plan.

1       (d) If the lessee does not implement the plan, the lessee  
2 shall report to the board all the circumstances that explain that  
3 fact and describe the good faith efforts made to implement the plan.

4       (e) The board shall audit the lessee's compliance with the  
5 plan. If the lessee does not implement the plan, the board shall  
6 determine whether the lessee made good faith efforts to do so. In  
7 determining whether the lessee acted in good faith, the board may  
8 not consider the success or failure of the lessee in:

9           (1) procuring goods and services in any specific  
10 quantity from historically underutilized businesses; or

11           (2) participating to any specific extent with  
12 historically underutilized businesses in the production of oil,  
13 gas, or other minerals from land leased under this subchapter.

14       (f) If the board determines that the lessee failed to  
15 implement the plan in good faith, the board, in addition to any  
16 other remedies, may bar the lessee from bidding at any future lease  
17 sale held under this subchapter.

18       SECTION 2. Subchapter D, Chapter 66, Education Code, is  
19 amended by adding Section 66.665 to read as follows:

20       Sec. 66.665. PROCUREMENT FROM OR PARTICIPATION WITH  
21 HISTORICALLY UNDERUTILIZED BUSINESSES. (a) In this section,  
22 "historically underutilized business" has the meaning assigned by  
23 Section 2161.001, Government Code.

24       (b) To be eligible to bid on an oil and gas lease, a person  
25 must submit to the board a plan acceptable to the board specifying  
26 how the person will:

27           (1) procure goods and services from historically

1 underutilized businesses; and

2 (2) participate with historically underutilized  
3 businesses in the production of oil and gas from land leased under  
4 this subchapter.

5 (c) The lease must contain, as a provision of the lease that  
6 must be fulfilled, the plan that the lessee submitted before the  
7 lease sale. The lessee shall make good faith efforts to implement  
8 the plan.

9 (d) If the lessee does not implement the plan, the lessee  
10 shall report to the board all the circumstances that explain that  
11 fact and describe the good faith efforts made to implement the plan.

12 (e) The board shall audit the lessee's compliance with the  
13 plan. If the lessee does not implement the plan, the board shall  
14 determine whether the lessee made good faith efforts to do so. In  
15 determining whether the lessee acted in good faith, the board may  
16 not consider the success or failure of the lessee in:

17 (1) procuring goods and services in any specific  
18 quantity from historically underutilized businesses; or

19 (2) participating to any specific extent with  
20 historically underutilized businesses in the production of oil and  
21 gas from land leased under this subchapter.

22 (f) If the board determines that the lessee failed to  
23 implement the plan in good faith, the board, in addition to any  
24 other remedies, may bar the lessee from bidding at any future lease  
25 sale held under this subchapter.

26 SECTION 3. Subchapter D, Chapter 85, Education Code, is  
27 amended by adding Section 85.555 to read as follows:

1           Sec. 85.555. PROCUREMENT FROM OR PARTICIPATION WITH  
2 HISTORICALLY UNDERUTILIZED BUSINESSES. (a) In this section,  
3 "historically underutilized business" has the meaning assigned by  
4 Section 2161.001, Government Code.

5           (b) To be eligible to bid on an oil, gas, sulphur, mineral  
6 ore, or other mineral lease, a person must submit to the board a  
7 plan acceptable to the board specifying how the person will:

8                   (1) procure goods and services from historically  
9 underutilized businesses; and

10                   (2) participate with historically underutilized  
11 businesses in the production of oil, gas, sulphur, mineral ore, or  
12 other minerals from land leased under this subchapter.

13           (c) The lease must contain, as a provision of the lease that  
14 must be fulfilled, the plan that the lessee submitted before the  
15 lease sale. The lessee shall make good faith efforts to implement  
16 the plan.

17           (d) If the lessee does not implement the plan, the lessee  
18 shall report to the board all the circumstances that explain that  
19 fact and describe the good faith efforts made to implement the plan.

20           (e) The board shall audit the lessee's compliance with the  
21 plan. If the lessee does not implement the plan, the board shall  
22 determine whether the lessee made good faith efforts to do so. In  
23 determining whether the lessee acted in good faith, the board may  
24 not consider the success or failure of the lessee in:

25                   (1) procuring goods and services in any specific  
26 quantity from historically underutilized businesses; or

27                   (2) participating to any specific extent with

1 historically underutilized businesses in the production of oil,  
2 gas, sulphur, mineral ore, or other minerals from land leased under  
3 this subchapter.

4 (f) If the board determines that the lessee failed to  
5 implement the plan in good faith, the board, in addition to any  
6 other remedies, may bar the lessee from bidding at any future lease  
7 sale held under this subchapter.

8 SECTION 4. Subchapter D, Chapter 109, Education Code, is  
9 amended by adding Section 109.645 to read as follows:

10 Sec. 109.645. PROCUREMENT FROM OR PARTICIPATION WITH  
11 HISTORICALLY UNDERUTILIZED BUSINESSES. (a) In this section,  
12 "historically underutilized business" has the meaning assigned by  
13 Section 2161.001, Government Code.

14 (b) To be eligible to bid on an oil, gas, sulphur, or other  
15 mineral lease, a person must submit to the board a plan acceptable  
16 to the board specifying how the person will:

17 (1) procure goods and services from historically  
18 underutilized businesses; and

19 (2) participate with historically underutilized  
20 businesses in the production of oil, gas, sulphur, or other  
21 minerals from land leased under this subchapter.

22 (c) The lease must contain, as a provision of the lease that  
23 must be fulfilled, the plan that the lessee submitted before the  
24 lease sale. The lessee shall make good faith efforts to implement  
25 the plan.

26 (d) If the lessee does not implement the plan, the lessee  
27 shall report to the board all the circumstances that explain that

1 fact and describe the good faith efforts made to implement the plan.

2 (e) The board shall audit the lessee's compliance with the  
3 plan. If the lessee does not implement the plan, the board shall  
4 determine whether the lessee made good faith efforts to do so. In  
5 determining whether the lessee acted in good faith, the board may  
6 not consider the success or failure of the lessee in:

7 (1) procuring goods and services in any specific  
8 quantity from historically underutilized businesses; or

9 (2) participating to any specific extent with  
10 historically underutilized businesses in the production of oil,  
11 gas, sulphur, or other minerals from land leased under this  
12 subchapter.

13 (f) If the board determines that the lessee failed to  
14 implement the plan in good faith, the board, in addition to any  
15 other remedies, may bar the lessee from bidding at any future lease  
16 sale held under this subchapter.

17 SECTION 5. (a) This Act takes effect September 1, 2003.

18 (b) The changes in law made by this Act apply only to the  
19 sale of a lease for oil, gas, or other minerals for which notice is  
20 given on or after the effective date of this Act. The sale of a  
21 lease for oil, gas, or other minerals for which notice was given  
22 before the effective date of this Act is governed by the law as it  
23 existed immediately before the effective date of this Act, and that  
24 law is continued in effect for that purpose.